(4)

% 03.01.2006

Present: Mr. Pravin Anand with Ms Nidhi Chopra, Advocates for the plaintiff.

+ **Transfer Petition No. 11/2005**

* The plaintiff has filed this transfer petition u/s 24(5) of the Code of Civil Procedure, 1908 (hereinafter referred to as the Code).

The plaintiff had filed a suit for permanent injunction restraining infringement of copyright, passing off, damages, delivery up, etc. The said suit was originally filed before this court, but in view of the increase in pecuniary jurisdiction of this court, all suits of value of less than Rs 20 lakh were directed to be transferred to the District Courts vide Central Government Notification dated 23.07.2003. This suit was also transferred since it was valued at Rs 5,00,900/-.

On transfer of the suit, the plaintiff moved an application under Order 6 Rule 17 of the Code seeking enhancement of the jurisdictional value to Rs.20,00,900/-. The said application was allowed vide order dated 08.11.2004. Learned counsel for the plaintiff states that court fees has also been filed. The result of the same is that the trial courts no more have the pecuniary jurisdiction to try and determine the suit. The plaintiff has stated that the suit was filed in the year

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1998, the pleadings are complete and the suit is at the stage of trial. It is in view thereof that the plaintiff seeks exercise of jurisdiction by this Court u/s 24(5) of the Code.

The defendants were issued notice and entered appearance on 13.05.2005 when they were granted four weeks time to file reply. No reply has been filed till date. The matter has been called over once and passed over. On both occasions, none appeared for the defendants.

On consideration of the material placed before the court including the fact that the suit was originally filed in this court, the suit is at the stage of trial, I see no purpose whereby the plaint should be returned to be represented to the competent court and for the suit to begin de novo. It is in the fitness of things that this court should exercise jurisdiction u/s 24(5) of the Code as the court would have pecuniary jurisdiction now to try and determine the present suit and the trial court has ceased to have the pecuniary jurisdiction. Ordered accordingly.

The suit pending before the court of Mr. N.K.Kaushik, ADJ, Delhi being Suit No. 378/2003 titled 'Caterpillar Inc. v. Ram Roop Moriya & Ors.' be transferred to this Court and be listed before the Joint Registrar on 23.02.2006 for further proceedings.

Transfer petition stands disposed of.

A copy of the order be also served dasti by learned counsel for the plaintiff on learned counsel for the defendant.

Dasti.

SANJAY KISHAN KAUL, J.

January 03, 2006
dm